

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRADLEY KERTIS,

Plaintiff,

v.

EQUILON ENTERPRISES LLC, et al.,

Defendants.

CASE NO. C20-526 MJP

ORDER ON MOTION FOR  
ATTORNEY FEES

The above-entitled Court, having received and reviewed:

1. Plaintiff's Motion for Attorney Fees (Dkt. No. 31),
2. Defendant Equilon Enterprises' Response (Dkt. No. 34),
3. Defendant Matrix Service's Joinder and Response (Dkt. No. 35),
4. Plaintiff's Reply in Support of Motion (Dkt. No. 36),

all attached declarations and exhibits, and relevant portions of the record, rules as follows:

IT IS ORDERED that the motion is DENIED.

1 Plaintiff prevailed on a motion to remand his matter back to state court (*see* Dkt. No. 30,  
2 Order on Motion to Remand) and now seeks attorney's fees pursuant to 28 U.S.C. § 1447(c) on  
3 the grounds that Defendants had no objectively reasonable basis for removal.

4 This motion is committed to the sound discretion of the Court (*see* Martin v. Franklin  
5 Capital Corp., 546 U.S. 132, 141 (2005); 28 U.S.C. § 1447(c)). The issue of whether Plaintiff is  
6 entitled to be reimbursed for his fees and costs turns on whether the removal was objectively  
7 reasonable at the time that it occurred. Lussier v. Dollar Tree Stores, Inc., 518 F.3d 1062, 1066  
8 (9th Cir. 2008).

9 Defendants have presented evidence supporting their belief at the time of removal that  
10 the Defendant who is now known to be a resident of Washington (like the Plaintiff) was  
11 domiciled in Illinois. Dkt. No. 19, Response at 2. Plaintiff's evidence to the contrary was not  
12 established until after the matter had been removed to federal court. While the Court is aware  
13 that Plaintiff alleged Sterling's possible residency in Washington in his complaint, it was done so  
14 in the conjunctive-disjunctive ("and/or"); the possibility that Sterling resided in Illinois was also  
15 alleged, and Defendants have indicated their not-entirely-unreasonable basis for believing he  
16 resided in Illinois.

17 Plaintiff's later confirmation that Sterling was a Washington resident does not establish  
18 that Defendants unreasonably believed he was a citizen of Illinois at the time of removal. Had  
19 Plaintiff contacted Defendants with this information, requested a stipulated remand, and been  
20 refused, the equities might have tipped in his favor. As it stands, he chose to reveal it in a reply  
21 brief – sufficient to earn him his remand, but not to qualify him for reimbursement of fees and  
22 costs.

1 The clerk is ordered to provide copies of this order to all counsel.

2 Dated July 31, 2020.

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4 Marsha J. Pechman  
5 United States Senior District Judge  
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